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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/911,142	07/23/2001	Reto Sieber	F-7086	4481

7590 12/17/2003  
JORDAN AND HAMBURG LLP  
122 East 42nd Street  
New York, NY 10168

EXAMINER
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EGAN, BRIAN P

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 12/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/911,142

Applicant(s)

SIEBER ET AL.

Examiner

Brian P. Egan

Art Unit

1772

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 November 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: 1-34.

Claim(s) withdrawn from consideration: \_\_\_\_\_

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
10. ☒ Other: Notice of references cited attached hereto

### ADVISORY ACTION

1. Applicant's arguments filed November 19, 2003 (paper no. 14) have been fully considered but they have not been entered by the Examiner. The proposed amendment raises new issues that necessitate a further search of the current state of the art thereby placing an undue burden upon the Examiner (pursuant to the added limitation relating to the perforations being formed at least through the backing layer and adhesive layer and wherein the central region of the tape is free of perforations).

Therefore, the following sets of rejections are maintained by the Examiner from the previous office action, paper no. 13: claims 1-3, 5-6, 10-12, 14-16, 19-21, 23-24, and 28-32 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Vitale (#4,792,473) in view of Hibler (#6,001,200) and Tuoriniemi (#6,444,307); claims 1-3, 5-6, 10-16, 19-21, 23-24, and 28-32 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Loscuito (#5,264,775) in view of Hibler (#6,001,200) and Tuoriniemi (#6,444,307); claims 4 and 22 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Vitale (#4,792,473) in view of Hibler (#6,001,200) and Tuoriniemi (#6,444,307), and further in view of Porter et al. (#5,895,301); claims 4 and 22 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Loscuito (#5,246,775) in view of Hibler (#6,001,200) and Tuoriniemi (#6,444,307), and further in view of Porter et al. (#5,895,301); claims 8, 17-18, 26, and 33-34 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Vitale (#4,792,473) in view of Hibler (#6,001,200) and Tuoriniemi (#6,444,307), and further in view of Avery (#2,373,092), Blok et al. (#6,177,163), and Samuelson (#5,736,001); and claims 8, 17-18, 26, and 33-34 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Loscuito (#5,246,775) in view of Hibler (#6,001,200) and

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Tuoriniemi (#6,444,307), and further in view of Avery (#2,373,092), Blok et al. (#6,177,163), and Samuelson (#5,736,001).

Even if the Amendment were to be entered, the Examiner first notes that it is unclear exactly what portion of the adhesive tape is considered the “central region” – does the central region only comprise perforations that would exist along the center line of the adhesive tape or would perforations offset from the center line still be located in the tape’s “central region”? Second, the repositioning of the perforations such that they fall outside the central region of the tape would have been obvious to one of ordinary skill in the art at the time Applicant’s invention was made based on the teachings of Stough et al. (United States Patent #5,711,124) (see Fig. 5) and further based on the Court’s decision in *In re Japikse*, 86 USPQ 70, where the court held that rearranging parts of an invention involves only routine skill in the art.

The Examiner further notes that if the proposed amendment were to be entered, the 35 U.S.C. 112, first and second paragraph rejections from the previous office action would be withdrawn.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian P. Egan whose telephone number is 703-305-3144. The examiner can normally be reached on M-F, 8:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Harold Y. Pyon can be reached on 703-308-4251. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9310.

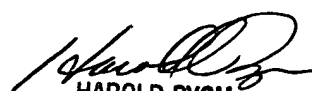
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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

  
BPE 12/15/03

  
HAROLD PYON  
SUPERVISORY PATENT EXAMINER  
1772

12/15/03